IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.2171 of 2008
BACHAN DHARI @ VAWAN DHARI
Versus
THE STATE OF BIHAR
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3 7.5.2008 Heard Counsel for the petitioner and perused the report submitted by the Additional Sessions Judge cum F.T.C. 1, Nalanda dated 27.3.2008. The petitioner is in jail in connection with misuse of privilege of bail granted to him earlier. From the order of the Sessions Judge, it transpires that the petitioner was granted bail and thereafter after he had absconded and ultimately his bail was cancelled on 7.1.1997 and thereafter the trial of this petitioner had to bee separated. In fact when the trial court had issued a warrant of arrest against the petitioner on 9.1.2007, he had surrendered before the Court on the same day.

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The Counsel for the petitioner submits that the petitioner being a poor person had gone out of State to earn his livelihood and even after his surrender no significant progress has been made in the trial inasmuch as only three prosecution witnesses have been examined and the case is still pending.

There is no doubt that the petitioner's absence from the Court below after being granted bail has led to delay in disposal of the trial but considering the fact that when the trial was started against the petitioner he was aged about

70 years and the trial court even now has not made significant progress in the pending trial, this Court is inclined to grant bail to the petitioner as he has remained in custody for almost 16 months.

Accordingly, this Court directs the petitioner Bachan Dhari @ Vawan Dhari to be released on bail in Sarmera P.S. Case No. 62/89 corresponding to S.Tr. No. 188/93 on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of Additional Sessions Judge cum F.T.C.-1, Nalanda on a specific condition that he will remain present on each and every date of the trial and if the petitioner remains absent even on one day of such trial, the bail of the petitioner shall stand cancelled automatically.

It is also made clear that one of the bailers must be the son of the petitioner namely Kanhaiya Ram who has sworn affidavit in this case.

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Rsh (Mihir Kumar Jha, J.)